

ROUTING AND TRANSMITTAL SLIP

Date

7/6/92

TO: (Name, office symbol, room number,
building, Agency/Post)

Initials

Date

1. Regina Starkey 3HW34

ORIGINAL
(Ked)

2.

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5.

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Coordination	Justify	

REMARKS

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FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

Jarvis Hyl

Phone No.

X8253



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

1h
ORIGINAL
(Red)

CERTIFIED MAIL

JUL 02 1992

Elizabeth Chipinsk, Esq
Pennzoil Company
Pennzoil Place
P.O. Box 2967
Houston, TX 77252-2967

Re: Pennzoil Products Company
Consent Agreement And Order WV-89-009

Dear Elizabeth:

Please find enclosed a fully executed copy of the above mentioned Consent Agreement and Order. Pursuant to the terms of the Order, Pennzoil Products Company ("Pennzoil") must submit payment of the civil penalty within sixty (60) calendar days of Pennzoil's receipt of the Order.

If you have questions regarding this matter, feel free to contact me at (215) 597-8253.

Sincerely,

Judith R. Hykel
Assistant Regional Counsel

CC: V. Zenone
R. Starkey ✓

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

ORIGINAL
(Red)

IN THE MATTER OF: :
:
Pennzoil Products Company, :
: SPCC Docket No.
Respondent :
: WV-89-009
:
Proceeding Under Section :
311(j) of the Clean Water : **CONSENT AGREEMENT**
Act, as amended, 33 U.S.C. :
§ 1321(j), (as saved pursuant :
to Section 6001(d) of the Oil :
Pollution Act of 1990, 33 U.S.C. :
§ 2751(d)) :

CONSENT AGREEMENT

The Parties to this Consent Agreement, Pennzoil Products Company ("Respondent") and the United States Environmental Protection Agency ("EPA"), have agreed to the entry of this Consent Agreement and to all terms and conditions contained herein. It is therefore Agreed as follows:

I. GENERAL PROVISIONS

A. On January 28, 1992, EPA issued a Notice of Violation and Proposed Civil Penalty ("NOV") to Pennzoil Products Company alleging violations of 40 CFR Part 112 (promulgated pursuant to Section 311(j)(1) of the Clean Water Act, as amended ("CWA"), 33 U.S.C. § 1321(j)).

B. The Respondent consents to and will not contest EPA jurisdiction regarding the NOV or this Consent Agreement.

C. Respondent expressly waives its right to a hearing on any issue of fact or law set forth in the NOV or this Consent Agreement.

D. Respondent neither admits nor denies the Findings of Fact or Conclusions of Law set forth in the NOV or this Consent Order.

E. Respondent Consents to the issuance of this Consent Agreement and the Order attached hereto, and consents, for the purposes of settlement, to the payment of a civil penalty of \$12,960.00.

F. Each Party to this action shall bear its own costs and attorney's fees.

II. FINDINGS OF FACT

A. Pennzoil Products Company is a corporation organized under the laws of Nevada.

B. Respondent has owned and/or operated a non-transportation-related on-shore oil storage facility known as the Etowah Terminal at 1015 Barlow Drive, Charleston, West Virginia ("Facility") since 1930. The Facility is located in Kanawha County approximately 25 yards from the Elk River, a navigable water of the United States.

C. Respondent stores approximately 4,000,000 gallons of oil at the Facility.

D. Respondent's Facility, because of its location, can reasonably be expected to discharge oil in harmful quantities into or upon the navigable waters of the United States or adjoining shorelines as described in 40 CFR § 110.3.

E. Respondent's Facility was subject to the requirements of 40 CFR Section 112 from June 30, 1983 until the date of the NOV.

F. An inspection of the Respondent's Facility, conducted by EPA on August 1, 1989, revealed that Respondent failed to review its Spill Prevention, Control, and Countermeasures ("SPCC") Plan between June 30, 1983 and August 1, 1989.

G. The EPA inspection of August 1, 1989 also revealed that the secondary containment dike walls were cracked and were breached to allow above ground pipes to pass through the dike wall. Therefore, the dike walls were not sufficiently impervious to contain spilled oil.

III. CONCLUSIONS OF LAW

A. Respondent is the owner and/or operator of a non-transportation-related on-shore facility engaged in, among other things, the storage of oil and which, due to its location, could reasonably be expected to discharge oil in harmful quantities into or upon the navigable waters of the United States or adjoining shorelines within the meaning of 40 CFR § 112.1(b).

B. Respondent was required to review its SPCC Plan in accordance with 40 CFR § 112.5 every three (3) years from the date its Facility became subject to 40 CFR § 112.5.

C. Respondent's failure to review its SPCC Plan every three years constitutes a violation of 40 CFR § 112.5 and is actionable pursuant to 40 CFR §§ 112.6 and 114.2(h).

D. Respondent was required to provide appropriate containment and/or diversionary structures or equipment to prevent discharged oil from reaching a navigable water course in accordance with 40 CFR § 112.7(c)(1).

E. Respondent failed to provide appropriate containment and/or diversionary structures or equipment to prevent discharged oil from reaching a navigable water course since its dikes, berms or retaining walls were not sufficiently impervious to contain spilled oil in accordance with 40 CFR § 112.7(c). Respondent's failure constitutes a violation actionable pursuant to 40 CFR § 114.2.

F. Respondent is liable for civil penalties pursuant to 40 CFR §§ 112.6 and 114.2(c) for its violations of 40 CFR § 112.7(c) and is liable for civil penalties pursuant to 40 CFR §§ 112.6 and 114.2(h) for its violations of 40 CFR § 112.5.

IT IS SO AGREED.

FOR RESPONDENT:

June 3, 1992
Date




Pennzoil Products Company

Name: William E. Welcher

Position: Executive Vice President Marketing Division

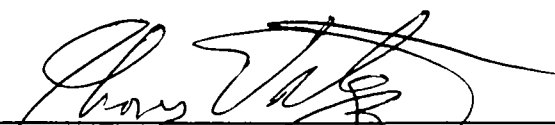
FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

6/16/92
Date



Judith R. Hykel
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III

6/26/92
Date



Thomas C. Voltaggio, Director
Hazardous Waste Management Division
U.S. Environmental Protection Agency
Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

IN THE MATTER OF: :
:
Pennzoil Products Company, :
: SPCC Docket No.
Respondent :
: WV-89-009
:
Proceeding Under Section :
311(j) of the Clean Water : **CONSENT ORDER**
Act, as amended, 33 U.S.C. :
§ 1321(j), (as saved pursuant :
to Section 6001(d) of the Oil :
Pollution Act of 1990, 33 U.S.C. :
§ 2751(d)) :

CONSENT ORDER

The General Provisions, Findings of Fact and Conclusions of Law set forth in the foregoing Consent Agreement are hereby accepted and incorporated as if set forth at length herein.

NOW, THEREFORE, pursuant to Section 311(j) of the CWA, 33 U.S.C. 1321(j), and 40 CFR Part 114, Respondent shall pay a civil penalty of \$12,960.00.

Payment of the civil penalty shall be made by check or money order within sixty (60) calendar days of Respondent's receipt of a copy of this Order. The check shall be made payable to the "Oil Spill Liability Trust Fund" and shall be sent to:

National Pollution Funds Center
U.S. Coast Guard
The Ballston Common Office Building
Suite 1000
4200 Wilson Boulevard
Arlington, Virginia 22203-1804

Respondent shall send a copy of the transmittal letter and check to the following persons:

(1)
SPCC Regional Hearing Clerk (3RC00)
U.S. EPA -- Region III
841 Chestnut Building
Philadelphia, PA 19107

(2)

Judith R. Hykel (3RC23)
Assistant Regional Counsel
U.S. EPA -- Region III
841 Chestnut Building
Philadelphia, PA 19107

The following notice concerns interest and late payment penalty charges.

Pursuant to 4 CFR § 102.13(b), interest will begin to accrue on the civil penalty described in Paragraph A of this Section if it is not paid within sixty (60) calendar days of Respondent's receipt of a copy of this Order. Such interest will be assessed at the rate of the United States Treasury tax and loan rate pursuant to 4 CFR § 102.13(c). In addition, a penalty charge of six (6) percent per annum will be assessed on any portion of the debt which remains delinquent more than ninety (90) calendar days after payment is due. Such penalty charge will be assessed as of the first day payment is due pursuant to 4 CFR § 102.13(e).

6/30/92
Date

Edwin B. Erickson
for Regional Administrator
U.S. EPA Region III